



FREDERICK COUNTY PLANNING COMMISSION

May 11, 2011

TITLE:

CarMax

FILE NUMBER:

SP 79-06 (AP #11615, APFO #4824 & FRO #4825)

REQUEST:**Site Plan**

The Applicant is requesting site plan approval for a 36,726 square foot automobile dealership and accessory automobile repair shop, on a 12.76-acre site.

PROJECT INFORMATION:

LOCATION: Located along MD 355, south of Grove Road.
ZONE: Zoned: GC (General Commercial)
REGION: Frederick
WATER/SEWER: W-1, S-1.
COMP. PLAN/LAND USE: General Commercial

APPLICANT/REPRESENTATIVES: (as applicable)

APPLICANT: CarMax, Inc
OWNER: Urbana Pike, LLC
ENGINEER: Harris, Smariga & Associates
ARCHITECT: Not Listed
ATTORNEY: Rand Weinberg, Esq.

STAFF:

Tolson DeSa, Principal Planner

RECOMMENDATION: Conditional Approval**Enclosures:**

Exhibit #1-Site Plan Rendering

Exhibit #2- Modification Requests for the following Zoning Ordinance Sections;

- a) Section 1-19-6.210.B-Loading Space Modification Requirements
- b) Section 1-19-6.220.A-Parking Space Requirements
- c) Section 1-19-6.220.H.1-Bicycle Parking Space Requirements
- d) Section 1-19-6.400.A.2.c-Landscaping and Screening
- e) Section 1-19-6.500.B.2-Lighting Pole Height

Exhibit #3-Executed Letter of Understanding Monocacy Shopping Center (Urbana Pike, LLC) dated 2-19-2008

STAFF REPORT

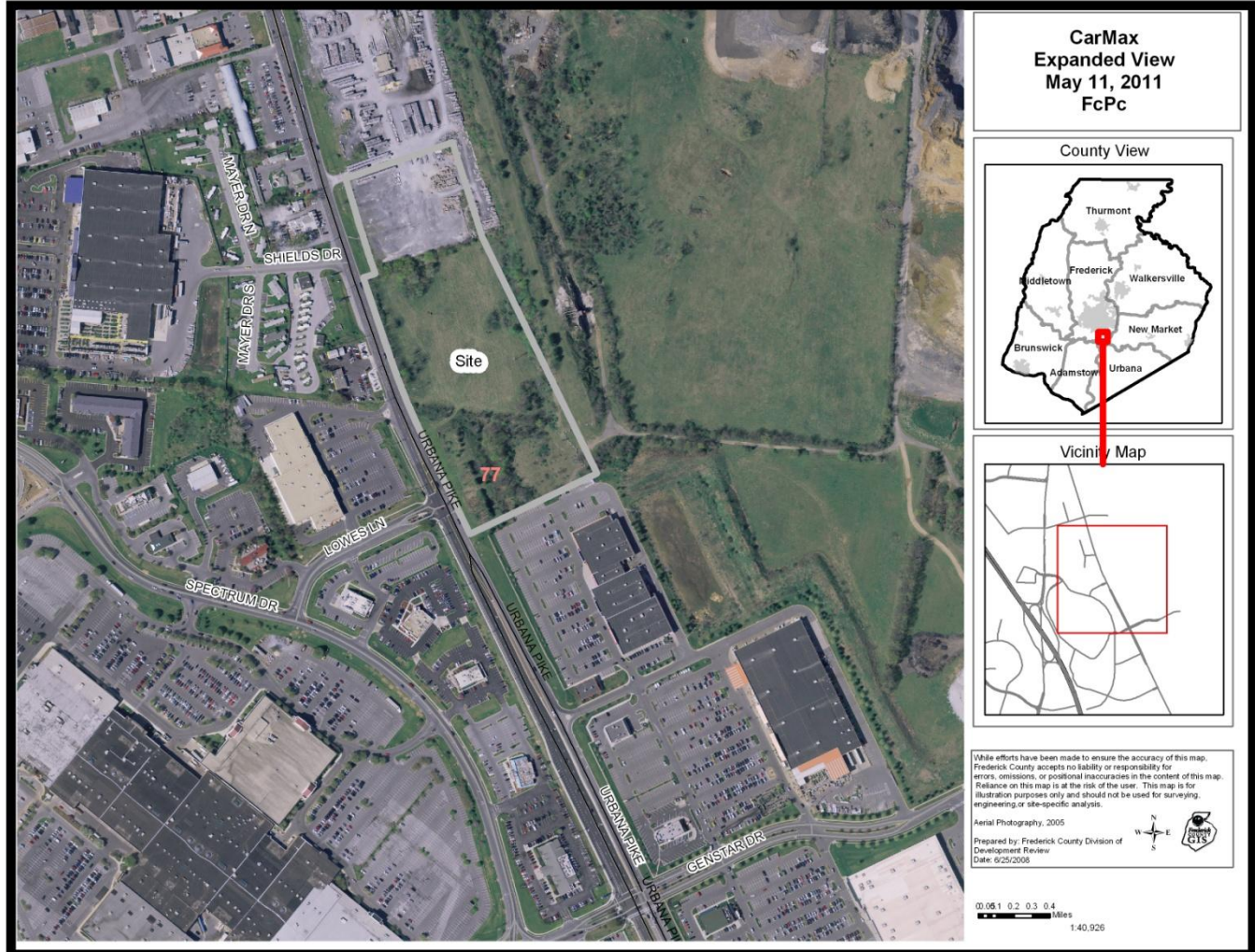
BACKGROUND

Present Proposal:

The Applicant is requesting site plan approval for a 36,726 square foot CarMax car dealership, with an accessory automobile repair facility. The 36,726 square foot area is proposed to consist of a 24,092 square foot service building, shown as Section "A" on the site plan, as well as a 9,687 square foot sales building, shown as Section "M" on the site plan. There is also a 2,947 square foot quality control area proposed, shown as "FQC". The Applicant is also proposing a 350-space automobile display area, as well as a 2.2-acre "Sales Staging Area". This plan also proposes a 167-space employee/customer parking area.

Past Approvals:

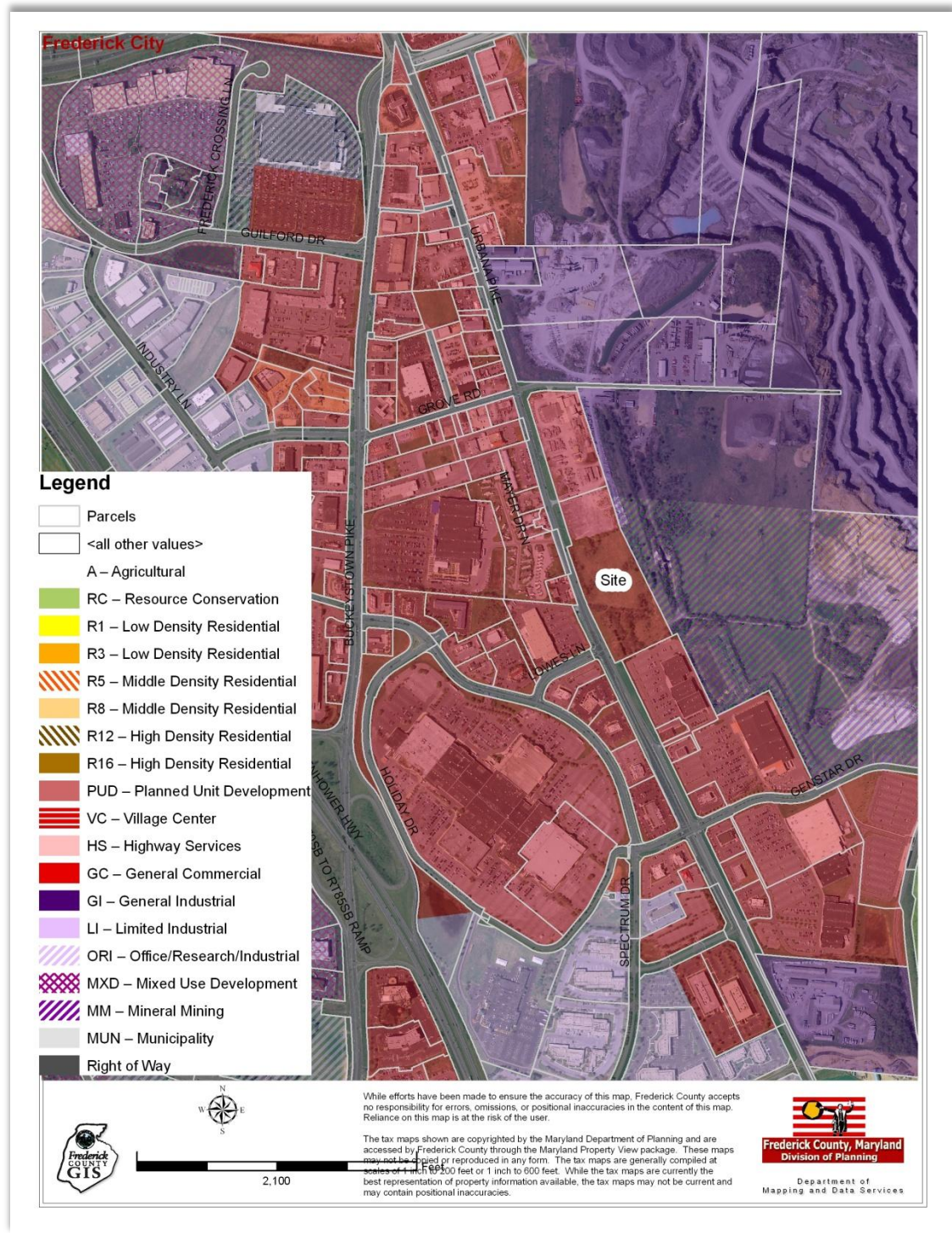
A previous site plan for this parcel received site plan, APFO and FRO approvals for a 87,180 square foot one-story shopping center with 481 parking spaces and four pad sites during the October 11, 2006 FCPC hearing. The final site plan was stamped and approved on July 10, 2008.



ANALYSIS

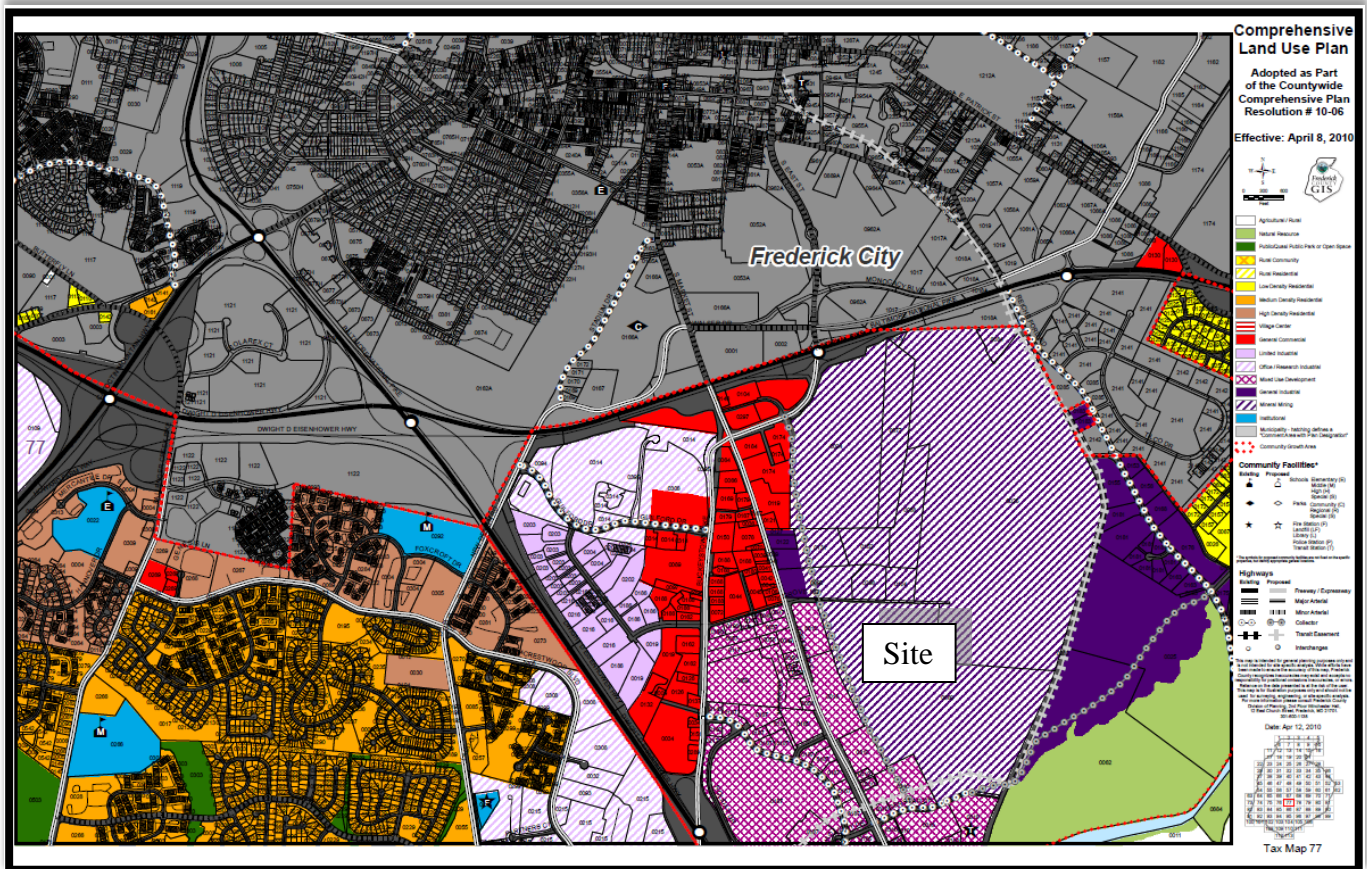
Land Use: The proposed use is being reviewed as an “Automobile Sales and Service Center” under *Automobile and Related Services* per §1-19-5.31 in the Zoning Ordinance and is a principal permitted use in the GC Zoning District subject to site development plan approval.

Zoning: The site is located within the General Commercial (GC) Zoning District, shown in red.



Frederick County Comprehensive Plan: Frederick Region

The Frederick County Comprehensive Plan indicates that the land use for this property is Mixed Use Development, shown in purple hatch below. The use proposed for the parcel complies with the Land Use designation within the County Comprehensive Plan



Dimensional Requirements/Bulk Standards: Section §1-19-6.1 of the Zoning Ordinance stipulates the setback requirements and the minimum lot area for the proposed use. The setback requirements are 25-foot front yard and 25-foot rear yard, with 8-foot side yards. The maximum height allowed is 60 feet. The minimum lot size for the zoning district is 12,000 square feet. The proposed plan meets the Bulk/Dimensional requirements.

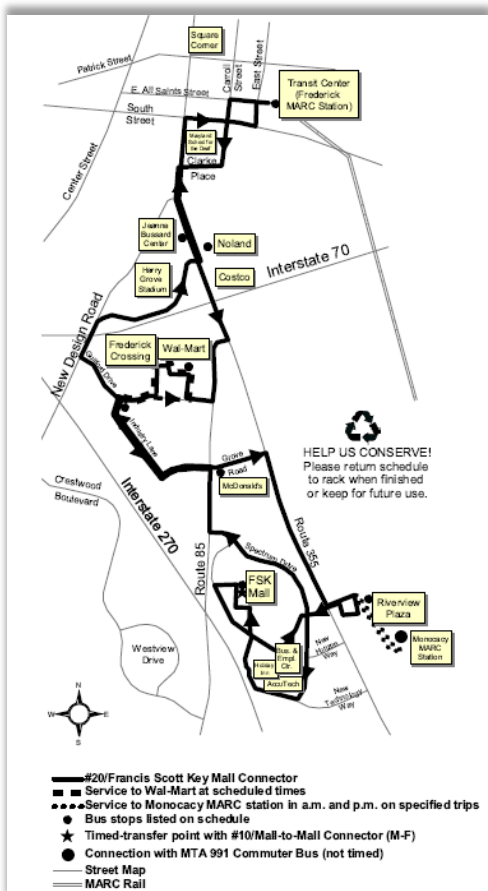
Access/Circulation: The access will be via a SHA approved full-movement, three-lane access (2 lanes out and one wide lane in) situated across MD 355 from Lowe's Lane. As part of the access approval, they will also be required to add a lane on the Lowe's Lane approach and provide a raised median on MD 355 from north of the access driveway to the existing median just south of the site.

The Applicant has shown a potential driveway connection to the adjacent Riverview Plaza parking area to the south. There is also a future connection to the MD 355 Parallel Collector Road planned along the eastern property boundary.

MD 355 Parallel Collector Road: The future Comprehensive plan alignment is proposed to travel behind MD 355 from MD 85 at I-70 south to Genstar Drive. This future proposed collector road will relieve future congestion along MD 355, and at its intersection with MD 85, by providing

an alternative and parallel access road for the commercial uses within the corridor. The staff approved MD 355 Parallel Collector Alignment is shown on the Land Use Plan Map above.

Public Transit: This site is well served by the Route 20-FSK Mall Collector, which picks up and drops off passengers at the Riverview Plaza Shopping Center, south of the site. This route has headways of ½ hour and one hour during peak and off-peak periods respectively. Please refer to the TRANSIT map to the left for the Route 20 transit pathway.



Parking: Pursuant to §1-19-6.22 of the Zoning Ordinance, 1 space is required for every 300 square feet of office floor area. Therefore, 50,100 square feet of office floor area requires 167 spaces. Total parking spaces required are 167; the Applicant is proposing 167, including 6 ADA accessible spaces.

During a preliminary county meeting with Planning Staff and the Applicant it was determined that the outdoor “Sales Staging Area” square footage may count toward the overall parking requirements in order to achieve CarMax’s desired customer/employee parking number of 167. Therefore, 13,374 square feet of the “Sales Staging Area” will be applied to the total building footprint, which will result in a parking calculation for a 50,100 square foot building.

The “Sales Staging Area” is designed to be a “free-form” area, which will be used for overflow parking, industry group sales of automobiles, and overall servicing of the vehicles entering and leaving the site. The “Sales Staging Area” will draw employees and industry visitors to the site which will be parking in the designated “Customer/Employee” parking area.

Therefore, the “Customer/Employee” parking area will need to park more vehicles than the parking target number allowed by code. Staff and the Applicant worked together to determine an appropriate square footage amount to be parked in the customer/employee parking area that accurately reflects the CarMax business model.

The Applicant is requesting a modification from Zoning Ordinance Section 1-19-6.220.A, in order to propose the 167 parking spaces projected for this size dealership and repair facility. Staff supports this modification request.

The Applicant is also proposing a 350 space “Sales/Display Area” along MD 355 for the automobile stock. Frederick County does not have any code requirements that regulate the number of non-public sales display spaces. The “Sales Display Area” is accessible only in the company of CarMax sales associates, and is utilized solely for the display of vehicles offered for sale to the public.

Loading Area: The required size and number of loading spaces are provided in §1-19-6.21 of

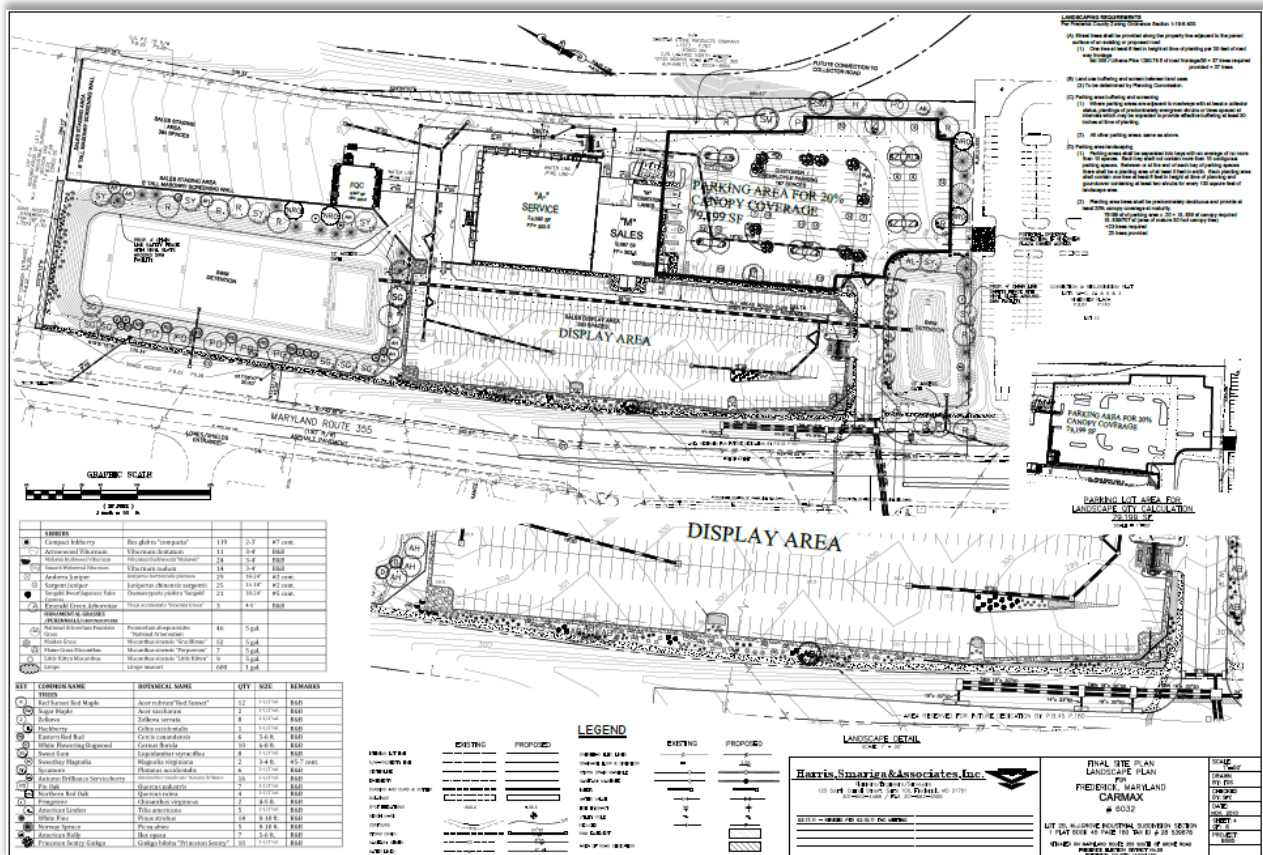
the Zoning Ordinance. Under §1-19-6.21, the Applicant has to provide four large loading spaces.

The Applicant has shown 1-large (12'x50') loading space to the rear of the principal structure "A" on the site. The Applicant has requested a loading space modification in accordance with Zoning Ordinance Section 1-19-6.210.D. (See attached Exhibit #2). Staff supports granting this modification request.

Landscaping: The Applicant has worked with Staff in order to propose a substantial, landscape plan throughout this site. The landscaping contains a variety of plant species, which provide screening as well as aesthetics. The planting schedule follows the standard sizes that have been approved by the Planning Commission.

The overall open/pervious area on this site is 4.47-acres or 37%. The previously approved Monocacy Plaza site plan had 3.45-acres of open/pervious area proposed.

The Applicant is requesting a modification from the Landscaping Ordinance Section 1-19-6.400.A.2.c, in order to provide an alternate planning design to the Planning Commission. The Applicant is requesting a shift in the street tree requirement. Rather than planting trees 35 feet on center the Applicant has proposed to cluster the trees in three areas along MD 355 which will reduce vehicle maintenance issues and increase visibility, while providing a landscaped streetscape. Frederick County does not have any code requirements that regulate the amount of landscaping within non-public sales display spaces or non-public sales staging areas permitted. The Applicant worked with Staff and introduced some landscaped islands containing low-lying groundcover species within the "Sales/Display Area". Staff supports granting this modification request.



Utilities: The site is to be served by public water and sewer and is classified W-1, S-1. The entire site is in pressure Zone #1.

Bicycle Parking: The Applicant is required to provide eight bicycle racks. The Applicant is requesting a modification from this section of the Zoning Ordinance and is proposing one rack on site located next to the front entryway. The Applicant notes that the proposed use would not generate a significant amount of customer or employee bicycle traffic. However, the applicant is providing bike lanes on MD 355 within their scope of improvements as their effort to help facilitate bike riding within their community. Staff supports granting this modification request.

Lighting: The Applicant is providing lighting by 14 building mounted lights, and 69, 26' pole lights at locations shown on the plan. The Applicant has noted on the plan that lighting will not exceed 0.5 ft/candles at the periphery of the site and lighting will be directional onto the site through the use of shielding and lighting orientation.

The Applicant has requested a lighting height modification (See attached Exhibit #2) for Planning Commission approval of taller light poles heights from 18' to 26' as outlined in Zoning Ordinance Section 1-19-6.500.

CarMax prototypical light poles are 24' in height mounted on a 2' high concrete base. The Applicant states that taller light poles at this site would allow for a more efficient layout reducing the overall number of light poles needed to illuminate the site. All light pole heads are fully downcast with flat lenses and housings to reduce light trespass and glare.

The lighting height modification request identifies that the site is located along a commercial corridor without close proximity to residential properties. The neighboring Lone Star restaurant and Office Depot utilize 30' and 26' high light poles, respectively. The adjacent Riverview Shopping Center currently has light poles which measure 40' tall without light trespass restrictions. Any increased lighting or inadvertent spillage along Urbana Pike will provide security for pedestrians utilizing the proposed sidewalk but will not adversely impact visibility for motorists.

The Applicant has worked with Staff in order to provide a stepped lighting level reduction when the facility is closed at 9:15PM. The lighting levels throughout the site will be reduced 50% after the store closes, and reduced to approximately 25% after employees have exited the facility in order to further reduce light trespass, night time glare and energy consumption. The 25% level is the minimum level that allows security cameras to function properly. The reduced lighting level photometric plan sheets are attached to the site plan as Sheets 6-8. Staff supports granting this modification request.

Signage: The site is allowed a maximum of 157 square feet of signage with a free-standing sign. In accordance with Zoning Ordinance Section 1-19-7.510.C, a 25% increase in square footage, for a total of 197 square feet, may be granted if no free-standing signs are proposed. A future free-standing sign has been indicated on the site plan with the proper setbacks, if the Applicant chooses to place one on site. The proposed signage complies with all applicable code requirements.

Adequate Public Facilities Ordinance (APFO):

This project was reviewed for potential impacts on roads, water and sewer during the 2006 approvals for the Monocacy Plaza development under AP #4824. During that time, it was determined by *Traffic Engineering* that the project trips the 50 peak hour trip threshold for testing and that the Applicant must contribute to the escrow accounts that the project impacts in order to mitigate the traffic issues associated with the project's road improvements.

The Applicant submitted a developer's option letter agreeing to work with the County staff to determine the appropriate pro rata share contribution(s), if any, to existing escrow accounts which are open for planned improvements to any intersections which were studied for APFO purposes pursuant to the scoping agreement. A Letter of Understanding (LOU) was subsequently executed between the Planning Commission and the previous applicant but to date has not been satisfied

DUSWM has stated that the public water and sewer facilities proposed to serve the property appear adequate at the time for this development.

Current CarMax Proposal:

Staff has determined that there was no increase in trip intensity over the previously approved APFO from the Monocacy Plaza Development (Urbana Pike, Inc.) due to the newly proposed CarMax use; therefore the previously approved APFO #4824 will remain in effect for the CarMax use. However the existing LOU must be satisfied prior to any building permit being issued for the CarMax site.

DUSWM stated that the public water and sewer facilities proposed to serve the property appear adequate for the CarMax proposal.

Forest Resource Ordinance (FRO): The Applicant has noted on the plan that FRO requirements for the site have been met by a fee-in-lieu payment received on 3/26/07, as part of the Monocacy Plaza Development AP # 4825.

OTHER AGENCY COMMENTS

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Approved
<i>Development Review Planning:</i>	A few minor drafting issues noted in Hansen, in addition to items listed in the report.
<i>State Highway Administration (SHA):</i>	N/A.
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Approved
<i>Health Dept.</i>	Approved
<i>Office of Life Safety</i>	Approved
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	N/A.

FINDINGS

Based on the discussion in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements once the conditions of approval have been met.

Staff notes that if the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval. As previously stated, APF was previously approved on October 11, 2006 for the Monocacy Plaza Shopping Center (Urbana Pike, LLC) proposal, and is valid until October 11, 2015. Since there is no increase in trip intensity over the AP# 4824 approval, further APFO testing is not required.

Staff has no objection to conditional approval of the site plan.

RECOMMENDATION

Should the Planning Commission conditionally approve this Site Plan SP # 79-06 (AP# 11615, APFO 4823 & FRO 4825) for the proposed CarMax, the motion for approval should include the following item:

1. Site plan approval for a period of three years from today's date or until APFO approval expires.
2. APFO approval until October 11, 2015

Staff recommends that the following items be added as conditions of approval:

1. Address all agency comments as the plan proceeds through completion.
2. Approval of Zoning Ordinance Modification requests for the following code sections:
 - a. §1-19-6.210.B Loading Space Requirements
 - b. §1-19-6.220.A Parking Space Requirements and Dimensions
 - c. §1-19-6.220.H.1 Parking Space Requirements and Dimensions
 - d. §1-19-6.400.A.2.c Landscaping and Screening
 - e. §1-19-6.500.B.2 Lighting Pole Height





April 18, 2011

Frederick County Division of Permitting & Development Review
Attn: Tolson DeSa, Principal Planner
Frederick County, Maryland
30 North Market Street
Frederick, MD 21701

Subject: CarMax Auto Superstore: Frederick County, MD – 5645 Urbana Pike (MD Route 355)
Site Development Plan Application
Frederick County Zoning Ordinance Modification Requests to:
Section 1-19-6.210(B) - Loading Space Requirements and Dimensions;
Section 1-19-6.220(A) - Parking Space Requirements and Dimensions;
Section 1-19-6.220(H)(1) - Parking Space Requirements and Dimensions;
Section 1-19-6.400(A)(2)(c) - Landscaping and Screening; and
Section 1-19-6.500 (B)(2) - Lighting

Dear Mr. DeSa:

The purpose of this letter is to provide a formal petition and supporting information on the modifications being requested for the proposed CarMax Auto Superstore to be constructed within a GC (General Commercial) zone district.

Section 1-19-6.210(B) - Loading Space Requirements and Dimensions

Request to modify the number of required large off-street loading spaces from five (5) to one (1).

Based on the successful operation of 103 CarMax locations across the country, CarMax has determined that its operations do not require more than one off-street loading space. Because CarMax' business is the retail sales of vehicles, bulk deliveries of other goods on large trucks will be infrequent. Therefore, one designated loading space is adequate. Vehicles will be delivered by car carriers and will be unloaded along the eastern-most curb line in the customer/employee parking lot so as to not adversely impede circulation in the parking lot. Vehicles will typically be delivered and unloaded during non-business hours with an employee present.

Section 1-19-6.220(A) - Parking Space Requirements and Dimensions

Justification statement for parking space increase.

The Frederick County parking requirements for "automobile sales and service garage" are 2 spaces per service bay, plus 1.5 space per each employee. "All other types of business or commercial uses permitted in any commercial district" require 1 space for each 300 square feet of floor area. The number of parking spaces CarMax needs in order to successfully operate its business in this location is based on a national sales projection and building prototype model that has been developed and tested over time.

At the September 28, 2010 preliminary meeting with Frederick County, the Planning Staff agreed that its code parking requirements do not adequately support CarMax' unique business model and resulting parking needs. They therefore agreed to allow a portion of the sales display area to count as building square footage in the parking count calculation, using the "1 for each 300 square feet" standard. Therefore, 13,374 square feet of the sales display area has been included with the building square

footage in the calculation for achieving the CarMax required and provided number of public parking spaces.

Additionally, Frederick County does not have any code requirements that regulate the number of non-public sales display spaces or the amount of non-public sales staging area permitted. As with the customer and employee parking spaces requirements, the number of sales display spaces and amount of sales staging area is determined by CarMax' expected operational needs and sales projections. The number of sales display spaces provided on the submitted site plan meet the minimum requirements for CarMax; however, the amount of area within the sales tagging area is actually less than needed.

The CarMax business model, like other automobile sales businesses, is a commercial business that sells directly to the consumer; however, unlike most retail sales businesses, the entire inventory of CarMax is displayed outdoors. The sales display area, although in many respects resembling a typical parking lot, is not utilized for high turnover "in-and-out" customer traffic. The sales display area is accessible only in the company of a CarMax sales associate, and is utilized wholly for the display of vehicles offered for sale to the public. Therefore, the typical considerations regulating the number of parking spaces to be utilized on a retail site do not fit this scenario, where the area is being used for the display of merchandise rather than for customer parking.

Section 1-19-6.220(H)(1) - Parking Space Requirements and Dimensions

Request to modify the number of required bicycle racks from nine (9) to one (1).

Because of the nature of the CarMax business and the product it sells, CarMax does not generate significant, if any, customer or employee bicycle traffic. Given this site is in an intensive commercial corridor that has limited access to residential areas and is automobile dominant, multiple bicycle racks do not seem to be warranted. Additionally, the installation of the required nine bicycle racks would require a large amount of otherwise utilized and economically valuable space near the main building entrance and would be an unnecessary expense given the expectation that even one bicycle space will be rarely used.

Section 1-19-6.400(A)(2)(c) - Landscaping and Screening

Request for approval of an alternate on-site location for trees through an alternate planting design.

This particular site poses unique challenges to work around while maintaining certain operational requirements for CarMax. There are significant detention requirements as well as ROW dedication and reservation requirements that leave little room for trees between the sales display area and the sidewalk required along Urbana Pike. Additionally, trees between Urbana Pike and the sales display area will result in vehicle maintenance issues (bird droppings, leaves, branches, etc.) as well as visibility concerns for CarMax. An alternative plan is being requested to deviate from the "one tree per 35 feet of roadway frontage" requirement and instead provide the required trees in clusters along the sales display area and along the detention ponds.

The sales display area differs from the typical car dealership lot because CarMax restricts public vehicle access and maintains rigorous security measures. The proposed sales display area landscaping along Urbana Pike will exceed the screening provided at other existing car dealerships in the Frederick area. Furthermore, the relationship between the displayed vehicles and the public roadway will also exceed that of other car dealerships. Unlike many car dealerships that park cars on the grass, frequently within public street right of ways to increase the visibility of their products, CarMax does not display their vehicles outside of pavement areas, nor do they use other driver distracting marketing gimmicks such as open hoods with placards, flags, balloons or other dirigibles. The vehicles at CarMax will be neatly displayed in the secured sales display area behind a 6' to 16' wide landscaped area along Urbana Pike.

There are no Frederick County requirements or regulations for landscaping within the fully secured sales display area or screened sales staging area. However, due to requests from Staff, we have added islands within the sales display area in locations that minimize the loss of valuable vehicle display spaces. It is preferential to minimize landscaping within the sales display area as it typically results in water spots on vehicles from irrigation heads, bird droppings, maintenance crew access issues, and the potential for damage to vehicles from maintenance equipment. The topography of the site places the sales display area 0.5' higher than Urbana Pike at the north end and 7' higher at the south end. Given this condition, visibility into the site from Urbana Pike past the first row of spaces will be very limited and views of any landscaping internal to the sales display area from Urbana Pike would likely be non-existent. Finally, it is preferred that the amount of landscaped and pervious area around the sales display area be limited given the karst conditions under the site due to the proximity of the limestone quarry.

The sales staging area is completely screened from public view along Urbana Pike with a six-foot masonry wall and with vegetation around the detention pond, thereby negating the need for internal landscaping. Additionally, because the staging of vehicles in this non-public area changes daily depending on operational needs, any internal landscaping would negatively impact the flexibility CarMax requires to maintain its operational efficiencies.

Section 1-19-6.500 (B)(2) - Lighting

Request to increase the maximum height of pole lighting from eighteen feet (18') to twenty-six feet (26') and increase the maximum lighting level requirement at the property line from one-half foot-candle to five foot-candles.

CarMax prototypical light poles are 24' in height mounted on 2' high concrete bases. Taller light poles allow for a more efficient layout reducing the overall number of light poles needed to illuminate the site. All light pole heads are fully downcast with flat lenses and housings to reduce light trespass and glare. The increased lighting levels near the property boundaries are needed to provide ample security for CarMax's inventory and for the safety of its customers and associates. Low lighting, especially in the sales display area, would inhibit CarMax's ability to effectively sell their product due to the difficulties associated with reduced visibility. As a counter measure, lighting levels are reduced to approximately 50% after store closing and reduced to approximately 25% after employees have exited the facility to reduce light trespass and energy consumption. The 25% level is the minimum level that allows the security cameras to function properly.

The increased light pole height and property line lighting levels should not adversely impact the adjacent properties given the surrounding land uses. There are no residential neighborhoods within close proximity to the proposed site and Urbana Pike is a four-lane major arterial/state highway with an intense cluster of commercial uses. The Lone Star Restaurant and Office Depot utilize 30' and 26' high light poles, respectively, as measured by Harris, Smariga & Associates. Additionally, heavy industrial uses are located to the north (cement block plant) and east (Lafarge limestone quarry). Finally, to the south is the Riverview Plaza shopping center, which was approved with 40' tall light poles and no light trespass restrictions. The proposed lighting levels shown on the full lighting level plan are below five foot-candles at the property boundary and are reduced to zero shortly outside the property boundary. The lighting levels are below 0.5 foot-candle at the edge of the proposed Urbana Pike highway widening and approach zero at the road's centerline. The increased lighting along Urbana Pike will provide security for pedestrians utilizing the proposed sidewalk but will not negatively impact visibility for drivers on Urbana Pike.

Frederick County Division of Permitting & Development Review
April 18, 2011

Thank you for your careful consideration of the proposed modifications requested with this application.
If you have any questions, or need additional information, please feel free to call me at (303) 679-6977.

Regards,

A handwritten signature in black ink, appearing to be 'HK' with a stylized flourish at the end.

Heath Kennedy, P.E.

cc: J-M Dixon, CarMax Auto Superstores, Inc.
Rand Weinberg, Weinberg & Miller, LLC
Fran Zeller, Harris, Smariga & Associates, Inc.

4824



**DIVISION OF PERMITTING AND DEVELOPMENT REVIEW
FREDERICK COUNTY, MARYLAND**

Department of Development Review

30 North Market Street • Frederick, Maryland 21701
301-600-1134 • FAX: 301-600-1645 • TTY: Use Maryland Relay Service
www.co.frederick.md.us

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

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Vice President

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COUNTY MANAGER

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URBANA PIKE, INC.

The following Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and "Urbana Pike, Inc." ("**Developer**") or assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements (or the required pro-rata contribution of funds to a road improvement escrow account as discussed in more detail below) for the property described below to be developed in compliance with the Frederick County Adequate Public Facilities Ordinance ("**the APFO**"). This Letter is in response to a Developer's Option Letter submitted to the Commission dated September 28, 2006. The Developer hereby agrees and understands that unless the below-described improvements or pro-rata escrow account contributions have been made, development will not be permitted to proceed.

This Letter concerns itself with Urbana Pike L.L.C., a 12.76-acre parcel of land, which is zoned General Commercial (GC), located on the east side of Maryland Route 355 (Urbana Pike), approximately 850 feet south of Grove Road. To the immediate north of the site is United Concrete, to the south is Riverview Plaza, to the east is Genstar Stone Products (LaFarge) Quarry and to the west is Maryland Route 355. The site is designated as Lot 2B on an Addition Plat entitled "Addition Plat Parcel A Addition to M.J. Grove Industrial Subdivision Section One", recorded among the land records of Frederick County at Plat Book 45 Book 180.

This APFO approval will be effective for the construction of a one-story shopping center, with four lease pad sites totaling 87,180 square feet. (69,200 square feet anchor retail store, Pad Site #1 (4,500 square foot Bank), Pad Site #2 (3,880 square foot Bank), Pad Site #3 (3,600 square foot Bank) and Pad Site #4 (6,000 square foot Retail store) shown on the Site Plan entitled "SITE PLAN Urbana Pike, LLC. SP-79-06B," which was conditionally approved by the Commission on October 11, 2006 ("**Site Plan**").¹

Water and Sewer Improvements

While the public water and sewer facilities proposed to serve the Project will be adequate for this development, the Developer is aware that capacity is not guaranteed until purchased. APFO approval for water and sewer does not guarantee that plats will be recorded and building permits issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section

¹ Notwithstanding the dimensions of the individual buildings shown on the Site Plan, the shifting of floor area between buildings shall not require further APFO review provided the total size of the shopping center does not exceed 87,180 square feet.

KLINE PROPERTY, URBANA PIKE, INC., LOU
FINAL DRAFT

Page 1 of 3

9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 (of Subdivision Regulations). Plats cannot be recorded until water and sewer improvements to the property line are available within (90) days of completion.

Schools

Schools are not required to be tested because the commercial use of the property.

Road Improvements

On May 22, 2006 "Urbana Pike LLC" had a Traffic Impact Study prepared by Street Traffic Studies, Ltd., in connection with the approval of the Site Plan for Urbana Pike, LLC as shown on the proposed Site Plan. Pursuant to comments from the State Highway Administration on the Traffic Impact Study, on July 31, 2006 "Urbana Pike, LLC" had a supplemental analysis prepared by Street Traffic Studies, Ltd. Pursuant to comments from the Frederick County Division of Permitting and Development Review on the Site Plan, on August 8, 2006 "Urbana Pike, LLC" also had a revised Traffic Impact Study prepared by Street Traffic Studies, Ltd. entitled, "Traffic Impact Analysis, Urbana Pike LLC, Lot 2B (collectively the "TIS").

The Developer shall make the following contributions and/or improvements for mitigation. These contributions and/or improvements have been determined to be the following:

- Contribute \$65,244 (14.6% of improvement cost) to the existing escrow account #21552 for the construction of an additional third lane on Urbana Pike approach at the intersection of Buckeystown Pike and Urbana Pike.
- Contribute \$17,360 (14.6% of improvement cost) to the existing escrow account #21558 for the construction of a third northbound left turn lane along Buckeystown Pike at the intersection of Buckeystown Pike and Urbana Pike.
- Contribute \$40,150 (14.6% of improvement cost) to establish an escrow account for the construction of a receiving lane along Buckeystown Pike for the northbound right turn lane along Urbana Pike.
- Contribute \$23,115 (12.3% of improvement cost) to the existing escrow account #21553 for the construction of a fourth westbound through/right turn lane at the intersection of Buckeystown Pike and Spectrum Drive.

It is expressly agreed that the matters set forth in this APFO Letter of Understanding are solely for the benefit of the Developer, and nothing herein shall confer any rights upon any third party, and further that the Developer shall not be required to make any contributions or construct any improvements except those forth herein as a condition of the APFO approval granted on October 11, 2006.

The APFO approval for development of Lot 2B shall be for a period of three (3) years from the date of the Planning Commission approval, (~~October 11, 2009~~).

Urbana Pike, Inc.

By Margaret M. Kline
Name: Margaret M. Kline
Title: Vice President

Date: Jan 18 2008

Attest: Jennifer N. DiGiovanna
Name: Jennifer N. DiGiovanna
Title: Glotren Development Coordinator

Date: 1-18-2008

KLINE PROPERTY, URBANA PIKE, INC., LOU
FINAL DRAFT
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Frederick County Planning Commission

By: Joe Brown III
Joe Brown III; Chairperson

or

Joan McIntyre, Vice Chairperson

Attest: Gary Hessong
Gary Hessong
Director,

Division of Permitting & Development Review

Date: 2/15/08

Date: 2/19/08

KRM
2/4/08

JTB 2/4/08